

Highlights of Military Family Leave

Effective Date

The U.S. Department of Labor issued new FMLA regulations and forms on January 16, 2009. The new regulations incorporate the provisions for Military Family Leave. As a result, the FMLA policy has been revised and *replaces the Interim Servicemember Family Leave Policy that was issued on June 20, 2008.*

Military Caregiver Leave

Eligible Employee

- The spouse, son, daughter, parent, or next of kin of a covered servicemember with a serious injury or illness may take job-protected FMLA leave to provide care to a covered servicemember.
- The spouse, parent, son or daughter of a covered military member on active duty or call to active duty status may take job-protected FMLA leave for any qualifying exigency.

Eligibility Requirement

- To use military family leave, the employee must meet the eligibility requirements of 12 months of employment with the State during the past seven years and 1,250 hours worked in the 12 months immediately preceding the date leave is to begin.

Qualifying Exigency Leave

Qualifying Exigency Leave may be taken by an eligible employee for any qualifying exigency arising out of the fact that a covered military member (National Guard or Reserve) is on active duty or call to active duty status in support of a contingency operation.

Maximum Length of Leave

- Employees are eligible for up to 12 weeks of qualifying exigency leave in the leave year.

Covered Military Member

- A covered military member is the employee's spouse, son, daughter, or parent who is on active duty or call to active duty status.

Active Duty or Call to Active Duty Status

- Active duty or call to active duty status refers to a member of the National Guard or Reserves who is under a call or order to active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation.

Qualifying Exigency

Qualifying exigencies include:

1. Short-notice deployment. Any issue in the event that the military member has seven or fewer days notice of active duty. This leave may be taken for up to seven days.
2. Military events and related activities. This leave is for the duration of the event.
3. Childcare and school activities when necessitated by the active duty or call of active duty status of a covered military member. Childcare provided on a routine, regular or everyday basis is not covered.
4. Financial and legal arrangements. This leave may be taken for up to 90 days after the termination of the covered military member's active service.
5. Counseling.
6. Rest and recuperation. This leave is for time spent with the military member who is on a short rest and recuperation leave. This leave may be taken for up to five days.
7. Post-deployment activities. This leave may be taken for up to 90 days after the termination of the covered military member's active service.
8. Additional activities. Both the employer and employee must agree on the activity and duration of leave.

To Request Qualifying Exigency Leave

- The employee must complete the [Certification of Qualifying Exigency for Military Family Leave](#) (WHD Publication 384, January 2009) and provide any required supporting documentation.

Military Caregiver Leave

Military Caregiver Leave may be taken by an eligible employee to care for a covered servicemember with a serious injury or illness.

Maximum Length of Leave

- Employees are eligible for up to 26 weeks of military caregiver leave in a 12 month period.
- The 12 month period starts on the first day the employee takes military caregiver leave.
- Any combination of absences in the 12 month period, including medical FMLA, may not exceed 26 weeks.

Use of Leave

- Leave is available both “per member” and “per injury.” This means that an employee could use leave to care for the same family member with a different illness or injury, or for a different family member who incurs an illness or injury that is covered by the regulations.

Serious Injury or Illness

- An injury or illness incurred by a covered servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of the member's office, grade, rank, or rating.

Covered Servicemember

- A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness incurred in the line of duty on active duty.

To Request Military Caregiver Leave

- The employee must complete the [Certification for Serious Injury or Illness of Covered Servicemember for Military Family Leave](#) (WHD Publication 385, January 2009) and provide any required supporting documentation.

Carefully review the military leave portions of the revised FMLA policy (Sections XVI and XVII).

Questions

Please direct any questions to your Personnel Officer or Sheryl Jensen (sheryl.jensen@iowa.gov or (515) 281-8866).